

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEPHEN PACHELLA,

Plaintiff,

v.

ORDER

ARRIVO ACCEPTANCE, LLC, et al.,

23-CV-01090 (PMH)

Defendants.

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PHILIP M. HALPERN, United States District Judge:

Plaintiff commenced this action on February 8, 2023 against Defendants Arrivo Acceptance, LLC, Garff Enterprises Inc., and Robert Avery. (Doc. 1, “Compl.”). Plaintiff asserts that “[t]his Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1332(a)(1): Pachella is a citizen of the State of New York; Arivo Acceptance, LLC and Garff Enterprises Inc. are citizens of the State of Utah; and the matter in controversy exceeds \$75,000, exclusive of interests and costs.” (*Id.* ¶ 2).

However, Defendant Arrivo Acceptance, LLC is a limited liability company, and “[w]ith the exception of corporations, the citizenship of business entities is derived from the citizenship of all members of the entity.” *Carden v. Arkoma Assocs.*, 494 U.S. 185, 189 (1990); *ICON MW, LLC v. Hofmeister*, 950 F. Supp. 2d 544, 546 (S.D.N.Y. 2013) (“[L]imited liability companies . . . obtain citizenship from each of their members.”). According to Plaintiff, “[u]pon information and belief, Arivo Acceptance, LLC is a foreign limited liability corporation that is organized and existing under the laws of the State of Utah with its principal place of business located in Utah.” (Compl. ¶ 5). Plaintiff, however, has not plead the citizenship of any of the LLC’s members. The Court is thus unable to determine whether the citizenships of all of Defendant Arrivo Acceptance, LLC’s members are diverse from Plaintiff as of the date of filing. The Court, therefore, is unable to

conclude that diversity jurisdiction exists under § 1332(a). Accordingly, by 5:00 p.m. on February 17, 2023, Plaintiff shall file a letter via ECF explaining the basis for his assertion that diversity of citizenship exists and support any factual statements about Arrivo Acceptance, LLC's membership with an affidavit from a person with personal knowledge of such.

SO-ORDERED:

Dated: White Plains, New York
February 10, 2023



Philip M. Halpern
United States District Judge